

**Amendments to the Drawings:**

Please add FIG. 2, illustrating a latch and associated flags marked stealable, unstealable, and stolen, as recommended by the Examiner in Section 2 of the office action.

**REMARKS/ARGUMENTS**

This responds to the office action mailed on September 24, 2004. Claims 1-15 are pending in the present application. Claims 1-15 are rejected. Claims 4, 8, and 12-15 have been cancelled. Reconsideration and allowance of the claims is respectfully requested in view of the following remarks.

**Drawings**

Figure 2 with a latch and associated flags marked stealable, unstealable, and stolen has been added to specification. No new matter has been added, and support for the new Figure may be found on page 6, lines 11-13. The drawings show every feature of the invention specified in the claims. The word “priority” has been deleted from the claims and does not appear in the drawing.

**The 35 U.S.C. §112 Rejections**

The Examiner rejected claims 1-15 under 35 U.S.C. 112. The Examiner maintains that the terms “stealable,” “unstealable,” “stolen,” “holding the latch,” and “releasing the latch” are indefinite. In claim 9 the Examiner maintains that “remark” is indefinite while in claims 13 and 14 the Examiner maintains that “cleanup subroutine” is indefinite.

Claims 1, 5, and 9 have been amended and the terms “stealable,” “unstealable,” and “stolen” are definite and clear. Claim 9 has been amended to remove the word “remark.” Claims 13 and 14 have been deleted.

The Examiner rejected claims 1-15 under 35 U.S.C. 112 as being incomplete for omitting essential structural relationships of elements, specifically between “stealable” and “stolen.” The claims have been amended to more completely provide structure and clarity.

### The 35 U.S.C. §102(e) Rejections

The Examiner rejected claims 1, 2, 5, 6, 9, and 10 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,574,654 to Simmons et al. (Simmons).

Claim 1 has been amended to recite in part:

- (a) providing a latch to a first task, wherein the first task requests the latch to obtain access to the resource;
- (b) accessing the resource with the first task
- (c) marking the latch stealable rather than releasing the latch; and
- (d) marking the latch unstealable if the first task again requests the latch to obtain access to the resource prior to the latch being requested by a second task seeking access to the resource.

Simmons fails to teach or suggest claim 1, specifically “marking the latch stealable rather than releasing the latch” and “marking the latch unstealable if the first task again requests the latch to obtain access to the resource prior to the latch being requested by a second task seeking access to the resource.” Rather, Simmons discloses that lock information in a second node includes at least one shadow lock that may be owned by a plurality of processes. The second node includes a separate shadow lock for each type of lock that the local lock manager on the second node has requested from the master resource object. When shadow locks are used, the step of determining whether the requested lock may be granted based on the lock information stored in the second node includes determining whether a shadow lock for the particular type of lock is stored in the second node. Col. 5, lines 52-62.

In fact, Simmons fails to teach or suggest resource management between lock requests, shadow or otherwise. Because of this, Simmons cannot anticipate claim 1.

Claim 1 is an independent claim and is in condition for allowance. Because the secondary references stand or fall with the primary references, claims are allowable because they are dependent upon the allowable independent claims. Claim 2 is dependant upon claim 1 and includes all the limitations of claim 1. Therefore, Simmons also fails to teach or suggest claim 2. Claim 2 is in condition for allowance.

Claims 5 and 9 have been amended in a manner similar to the amendment of claim 1. Although claims 5 and 9 are not identical to claim 1, the same argument for claim 1 applies to claims 5 and 9 as well. Claims 5 and 9 are in condition for allowance. Claim 6 depends from claim 5 and claim 10 depends from claim 9 and both are in condition for allowance as well.

#### The 35 U.S.C. §103(a) Rejections

Claims 3, 4, 7, 8, and 11-15 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Simmons in view of U.S. Patent No. 6,598,068 to Clark (Clark). Claims 4, 8 and 12-15 have been cancelled. To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations. MPEP § 2142.

Clark and Simmons, either separately or together, fail to teach or suggest independent claim 1. If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Claim 3 depends from claim 1, therefore claim 3 is non-obvious.

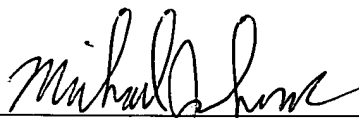
Independent claims 5 and 9 have been amended in a manner similar to the amendment of claim 1. Although claims 5 and 9 are not identical to claim 1, the same argument for claim 1 applies to claims 5 and 9 as well. Claims 5 and 9 are non-obvious with respect to Clark and Simmons, either separately or together. Claim 7 depends from claim 5 and claim 11 depends from claim 9, therefore both are in condition for allowance as well.

Claims 1-3, 5-7, and 9-11 are therefore allowable over the cited reference. Accordingly Applicant respectfully requests reconsideration and allowance of claims 1-3, 5-7, and 9-11 as now presented.

Applicant's attorney believes that this application is in condition for allowance. Should any unresolved issues remain, Examiner is invited to call Applicant's attorney at the telephone number indicated below.

Respectfully submitted,

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Date